

REMARKS

Reconsideration and allowance of this application in light of the accompanying remarks is respectfully requested.

THE REJECTIONS OF CLAIMS 1-9 ARE OVERCOME

Of the presently pending claims 1-9, only claim 1 is an independent claim, and each of the remaining claims 2-9 is directly or indirectly dependent upon independent claim 1.

In Item 3 of the Official Action, the Examiner has rejected independent claim 1 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,069,369 (to McGarvey).

In Item 4 of the Official Action, the Examiner has rejected independent claim 1 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,253, 941 (to Van Brocklin et al.).

Applicants respectfully disagree and believe that independent claim 1 is not anticipated by either of the cited references.

--McGarvey U.S. Patent No. 5,069,369

First of all, McGarvey wholly fails as an effective reference. McGarvey discloses an attachment device comprising two separate pieces--a sealing collar 14, and a cup 10 (see FIGS. 1 and 2 in McGarvey). The sealing collar 14 is made from a resilient plastic material, whereas the cup 10 is made from a crimpable metal. The metal cup 10 is not deformed during the mounting process except at the elevation of the crimping portion of the lower part of the skirt 30 (compare FIGS. 2 and 2A).

The metal cup 10 is not deformed at the upper part of the skirt comprising the lower endwall portion 56, the vertical stepped portion 58, and the upper endwall portion 60. It is these upper portions of the metal cup 10 that receive and contact portions of the collar 14.

In McGarvey, the collar 14 comprises an inner, upstanding, generally annular, sleeve (no number in FIGS. 1, 2, and 2A, but it is indicated in FIG. 2 by the "reception means" note written on the patent copy forwarded by the Examiner). The reception means sleeve of collar 14 is engaged in the vertical, annular stepped portion 58 of the metal cup 10 and is in an abutting relationship against the top endwall portion 60 of the metal cup 10 (as can be seen in FIG. 2).

In McGarvey, the collar 14 also includes a portion in the form of an annular plate that extends radially outwardly from the collar upstanding annular sleeve that is located at the inner periphery of the annular plate. The collar annular plate is not numbered in FIGS. 2 and 2A of McGarvey, but is designated as having a lower surface 40 in FIG. 2A. The collar annular plate defines an outer periphery comprising an upper annular bead and a lower annular lip (neither of which is numbered in the McGarvey patent figures). The collar annular plate lower annular lip projects slightly outwardly as can be seen in FIG. 2A such that the lower annular lip is engaged in a groove 34 in the inner sidewall 36 of the skirt 30 of the mounting cup 10.

As can be seen in the McGarvey patent, in FIGS. 2 and 2A, the upper annular bead of the annular plate of the mounting collar 14 is in an abutting relationship

against the overlying lower endwall portion 56 of the metal cup 10 when the collar annular plate lower annular lip is received in the groove 34 of the inner wall of the skirt 30 of the mounting cup 10.

It can also be seen in FIG. 2A of McGarvey that the sealing collar annular plate lower annular lip contacts the upper edge of the neck of the container. As can be seen in FIG. 1, the container is identified by reference number 20, and the neck of the container 20 has a flange 22 around its outer periphery. As can be seen in FIG. 2A, the container neck flange 22 is engaged by the downwardly extending portion of the collar annular plate lower annular lip.

Note also that the collar annular plate lower surface 40 (FIG. 2) is adapted to engage an annular flange surface 24 (FIG. 1) which projects upwardly from the top of the container neck as shown in FIG. 2A.

From a comparison of FIG. 2 with FIG. 2A of McGarvey, it is clear that the collar annular plate has not been deformed during the mounting process when the skirt 30 of the metal mounting cup 10 is deformed under the peripheral flange of the container 20. Indeed, the McGarvey patent specification also does not discuss any deformation of the annular plate of the collar 14. During the mounting process, it appears that the collar annular plate bottom surface 40 comes into contact with the container annular flange surface 24 substantially at the same time that the collar annular plate lower annular lip comes into contact with the upper peripheral surface of the container neck--insuring that no deformation of the collar annular plate occurs.

It would appear that the only reason why the collar is manufactured with an upwardly recessed region in the annular plate lower surface 40 (FIG. 2) is to accommodate the upwardly projecting container neck flange surface 24 (FIG. 1) when the collar annular plate lower annular lip also abuts the top of the outer periphery of the container neck top surface as shown in FIG. 2A.

The initial thickness of the collar annular plate is not ever deformed or reduced at the level of the container upwardly projecting flange surface 24 during installation. Rather, the various thicknesses of the various portions of the collar annular plate remain constant--before, during, and after installation, and the collar annular plate does not deform. The only deformable part of the collar 14 is the lower annular lip at its outer perimeter 32 (FIG. 2A) which accommodates the snap fit of the collar 14 into the receiving groove 34 of the metal cup skirt 30.

Indeed, if the annular plate of the collar 14 was axially deformable, then the inner peripheral portion of the lower surface of the annular plate of the collar 14 would have to contact the upper edge of the neck of the container. And, clearly, it can be seen in FIG. 2A that there is a space or gap between the top of the container neck and the bottom of the inner peripheral portion of the lower surface of the annular plate of the collar 14.

In view of the above discussion, it seems very clear that McGarvey does not teach the use of a deformable plate that moves axially upwards as set forth in the characterizing clause of independent claim 1 of the instant application.

In view of the above discussion, it is respectfully requested that the rejection of independent claim 1 as being anticipated by McGarvey be withdrawn.

--Van Brocklin et al. U.S. Patent No. 6,253,941

The Van Brocklin et al. patent also wholly fails as an effective reference with respect to claim 1. In FIGS. 1 and 2 of Van Brocklin et al., there is a ring 26 having an annular plate 30 adapted to fit on top of a container neck. The Examiner states that the annular plate 30 can be moved axially upwards away from the attachment means by a deformable flexible connection (a thinner portion of the plate 30) when pressing the plate on the upper end of the neck of a bottle. However, deformation of the surface of the underside of the Van Brocklin plate 30 does not result from a relative movement of the plate 30 per se relative to the attachment means (42) at the bottom of the skirt.

FIGS. 1 and 10 of Van Brocklin et al. should be compared to understand the difference between the final assembled condition of the components (FIG. 1) and the pre-assembled condition of the components (FIG. 10). It can be seen that the portion of the annular plate 30 in Van Brocklin located between the floor 32 and the frustoconical portion 48 has not been deformed macroscopically during the assembly process. Even if the frustoconical portion 48 is slightly deformed, there is no macroscopic effect on the general state of the annular plate 30 in the Van Brocklin et al. design.

It would not have been obvious to one of ordinary skill in the art to seriously consider that Van Brocklin et al. teach deformation of the annular plate 30. One of

ordinary skill in the art would have only seen that the bottom portion 42 is deformed inwardly under the container neck ledge 24, thus drawing the frustoconical portion 48 into contact with the container neck flange 18.

In fact, Van Brocklin et al. teach away from the present invention set forth in the instant application because Van Brocklin et al. teach the use of a special frustoconical deforming portion 48 to provide a seal. As described at column 5, lines 32-39, the frustoconical portion 48 has an upper region 50 and a lower region 52 which, after deformation, provide a deformed area of contact 54. This deformable portion 48, to the extent that it is frustoconical, is as much a part of the vertical skirt 34 as it is a feature that depends downwardly from the annular plate or ring 30. In any case, the deformable portion 48 is not an "internal" deformation structure within the plate or ring 30 to accommodate relative movement between the skirt attachment means 42 and the ring 30 per se. That is, with reference to FIG. 1, although the deformable region 48 can deform, the distance between the horizontal plate or ring 30 and the skirt attachment means 42 remains unchanged because there is no relative movement between the skirt 34 and the plate or ring 30.

Thus, in view of the above discussion, it is seen that Van Brocklin et al. teach away from the invention claimed in the instant application. Accordingly, withdrawal of the rejection of independent claim 1 over Van Brocklin et al. is respectfully requested.

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--The Dependent Claims 2-9


Dependent claims 2-9 are each directly or indirectly dependent on independent claim 1 discussed above. Therefore, each of these claims includes all of the features set forth in independent claim 1. For the reasons given above in arguing for the withdrawal of the rejections of claim 1 over McGarvey and Van Brocklin et al., the dependent claims 2-9 should also be allowable. Accordingly, withdrawal of the rejections of dependent claims 2-9 is respectfully requested.

Further, it is believed that this entire application is now in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

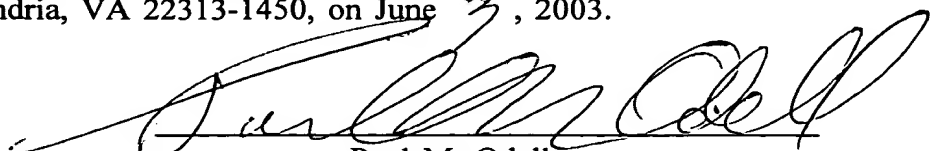
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